

REMARKS

Claims 1-7, 10, 18, 20-32, 34, 42, 44, 52, and 53 are pending. Claims 2, 3, 5, 7, 20, 25-28, 42, 44, and 52-53 are canceled herein without prejudice. Claims 8, 9, 11-17, 19, 33, 35-41, 43, and 45-51 were previously canceled. Claims 1 and 30 are amended herein to correct typographical errors, including the deletion and addition of commas and the addition of spaces where appropriate. Claims 30-32 and 34 are amended herein to more clearly set forth aspects of the invention. The Examiner has indicated that claims 1, 4, 6, 10, 18, 21-24, and 29 are allowable. Accordingly, allowed claims 1 (which is amended herein only to correct typographical errors), 4, 6, 10, 18, 21-24, and 29, and amended claims 30-32 and 34 are under consideration.

Any amendment is not to be construed as abandonment of any subject matter of the originally filed application. Accordingly, it is to be understood that Applicants reserve the right to reintroduce subject matter deleted from the application by the foregoing amendments and to file one or more divisional, continuation, and/or continuation in part applications directed to such subject matter.

Claims 30-32 and 34 are amended herein. Support for the amendments to the claims is found throughout the specification and in the original claims. Specifically, support for amendments to claims 30-32 is found, for example, in original claims 30-32. Support for amendment to claim 34 is found in original claim 34 and in the specification, for example, at page 1, lines 24-27 and at page 13, lines 15-26. No issue of new matter is introduced by these amendments.

Objections

Claim 32 is objected to for recitation of a non-elected species. Claim 32 is amended herein to recite the elected species of cysteinyl leukotriene. In view of the amendment to claim 32, Applicants believe that the objection to the claim may be withdrawn.

Rejections under 35 USC § 112

Claims 20, 25-28, 30-32, 34, 42, 44, and 52-53 have been rejected under 35 USC § 112, first paragraph, as allegedly containing subject matter which was not described in

the specification in such a way as to enable one of skill in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner does, however, acknowledge that the specification is enabling for a method for preventing or treating allergic asthma comprising administering an isolated histamine or serotonin binding protein of claim 1 to a human or an animal wherein the protein prevents or treats allergic asthma. In view of the amendments to the claims, the rejection, as it applied to claims 20, 25-28, 30-32, 34, 42, 44, and 52-53, is respectfully traversed.

Claims 30-32 are amended herein to be directed to a composition comprising a histamine or serotonin binding protein possessing the properties recited in claim 1. In that the histamine or serotonin binding protein of claim 1 has been determined to be directed to allowable subject matter, it logically follows that a composition comprising such a protein will also be viewed as allowable.

The Examiner asserts that aspects of the invention directed to a method of treating or preventing (a) a disease condition related to a vasoactive amine; (b) inflammation or allergic reaction; and (c) a disease condition related to serotonin activity comprising administering an isolated histamine or serotonin binding protein to a human or animal are allegedly not enabled by the specification. Applicants maintain that the specification is enabling for methods of treating or preventing such conditions, which are minimally related in that etiological symptoms of these conditions are associated with histamine and/or serotonin release. Moreover, affirmation that the specification is enabling for treating or preventing allergic asthma, an example of such a condition, supports Applicants' position in this regard. In the interests of expediting prosecution, however, claim 34 is amended herein to recite that the disease condition is allergic asthma. In view of the Examiner's statements acknowledging that the specification is enabling for treating or preventing allergic asthma, Applicants believe that the amendment of claim 34 obviates the basis for the rejection of this claim under 35 U.S.C. §112, first paragraph. Claims 20, 25-28, 42, 44, and 52-53 are canceled herein, thereby obviating any rejection of these claims.

In view of the above, Applicants contend that the rejection of claims 20, 25-28, 30-32, 34, 42, 44, and 52-53 under 35 U.S.C. §112, first paragraph, is rendered moot and respectfully request that the rejection be withdrawn.

Claims 20 has been rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Claim 20 is canceled herein, thereby obviating any rejection of this claim.

Fees

No additional fees are believed to be necessitated by this amendment. However, should this be an error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overpayment.

Conclusion

It is submitted, therefore, that the claims are in condition for allowance. No new matter has been introduced. Allowance of all claims at an early date is solicited. In the event that there are any questions concerning this amendment, or application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,

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Enclosures: Petition for a Three-Month Extension of Time
 Notice of Appeal